APPENDIX

STATUTES AND REGULATIONS INVOLVED

Revenue Act of 1928, c. 852, 45 Stat. 791:

> SEC. 103. EXEMPTIONS FROM TAX ON CORPORATIONS.
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> The following organizations shall be exempt from taxation under this title—
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> (11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;
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Section 103 (11) of the Revenue Act of 1932, c. 209, 47 Stat. 169; Section 101 (11) of the Revenue Act of 1934, c. 277, 48 Stat. 680; and Section 101 (11) of the Revenue Act of 1936, c. 690, 49 Stat. 1648, are identical with the above-quoted section.

Pennsylvania Laws (1856), No. 236, pp. 211, 214–215:

> SECTION 11. That whenever any company may be incorporated under this law, and may intend to transact its business upon the mutual principle exclusively, or in connection with a jointstock capital, it shall be so designated in its charter; and if upon the mutual principle exclusively, then the parties named in said special act, and their asso-

ciates, shall be made and constituted a body corporate, directly, and without the grant of letters patent, as hereinbefore provided in reference to joint stock companies; and in that case all persons insuring with, and continuing to be insured therein, shall thereby become members during the period they shall remain so insured, and no longer, and shall pay such rates as shall be determined by the board of directors, and be liable for all losses and expenses of said company, to the amount of the premiums paid, or agreed to be paid by said members respectively. * * *

SECTION 12. That the directors of the said companies shall, on the first Monday of January and July in each and every year, declare dividends of profits, as to them shall appear advisable, first deducting all expenses and losses; but the moneys received for premiums upon risks, which remain undetermined and outstanding at the time of declaring such dividends, shall not then be considered as part of the profits, nor divided as such, where said companies are conducted upon the joint stock principle; said dividends shall be paid to the respective stockholders, or to the agents duly empowered to receive them; and when organized upon the mutual principle exclusively, each member shall be entitled to such a proportion of the said surplus, as the cash premium paid by such members respectively may bear to the aggregate surplus so declared; and for the proportionate share of each member so ascertained, a certificate shall be issued, declaring him or them to be entitled to such a portion of the accumulated capital of the company; said certificate to be construed and governed as hereinafter mentioned; but no certificate shall be issued for a less sum than

twenty-five dollars, nor for any fractional part of five dollars, and shall, at the discretion of the directors bear, and be paid interest at a rate not exceeding six per centum per annum. When said companies shall be organized upon the stock and mutual principle jointly, the directors, after ascertaining the surplus as above mentioned, shall first set aside out of the same, six percent. on the actual value of the capital stock of said company; which valuation shall be estimated by the said directors for that purpose, and the balance shall be apportioned among the insured members and the stockholders; and each insured member shall receive certificates as aforesaid, for such a proportion of the said surplus as the premiums paid by him on determined risks may bear to the entire collective amount of stock valued as aforesaid, and premiums earned; and each stockholder shall receive such a proportion of the same, as the stock so valued and held by him may bear to the entire collective amount of said stock and premiums earned.

Purdon's Pennsylvania Statutes (1936), Title 40:

SEC. 363. *Scope of act.* * * * No insurance company heretofore created and to which this act applies shall be deprived of any right which it enjoys under its charter to engage in any business other than insurance. Nothing in this act shall be construed to interfere with the charter provisions or operations of any domestic mutual fire-insurance company heretofore organized under any general or special law of this Commonwealth.

SEC. 364. *Acceptance of act.*—Any insurance company heretofore organized under

any general or special law of this Commonwealth to transact any of the classes of insurance authorized herein, and to which this act does not apply, may transact any one or more of the classes of insurance authorized by section two hundred and two (202) of this act to be transacted by any such insurance company, and become subject to the provisions of this act, by providing the capital and reserve required for such companies organized hereunder, and by filing with the Insurance Commissioner a resolution of the board of directors or trustee, approved by the stockholders or members at a meeting specially called for that purpose, accepting the provisions of the Constitution and of this act, and agreeing to be governed thereby as fully as though organized hereunder. The charters of all insurance companies accepting the provisions of this act shall, after such acceptance, be repealed and of no effect insofar as the same may be inconsistent with the provisions of this act. Any domestic mutual fire company or association may elect to adopt and become subject to the provisions of this act, in lieu of any act or acts heretofore governing such company or association, by resolution of its board of directors, duly approved by a majority of the members present at any annual meeting or special meeting called for that purpose, of which all members shall be given at least two weeks' notice by mail. These resolutions, and the vote approving them, duly certified to by the president and secretary, shall be filed with the Insurance Commissioner, and, when approved by him, the company shall then and thereafter become subject to the provisions of this act.

SEC. 384. *Name of company.*—The subscribers to the articles of agreement of any company to be incorporated under the provisions of this act may adopt any name not previously used by any existing company, but such name must clearly designate the object and purpose of the company. In the case of a mutual company, the word "mutual" must appear in the name or title thereof. * * *

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SEC. 677. *Surplus held as reserve; disposition on dissolution.*—The surplus of any domestic mutual fire insurance companies issuing policies in accordance with the provisions of section one or two of this act shall be held as a reserve for the payment of losses and expenses; and, in the event of dissolution of the company, shall be divided pro rata among the policyholders whose policies are in force at the time of dissolution, but no policyholder, other than loss claimants, shall receive more than the amount of the unearned cash premium last paid to the company for the current term of such policy. Any balance remaining shall escheat to the Commonwealth of Pennsylvania.

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SEC. 917. *Reserves.*—A mutual insurance company, other than a mutual life company, shall maintain unearned premium and other reserves separately, for each kind of insurance, upon the same basis as that required of domestic stock insurance companies transacting the same kind of insurance, except that the Insurance Commissioner may, by written order, fix a different basis of reserve for losses and claim in workmen's compensation insurance. Any reserve for losses or claims based upon the premium income shall

> be computed upon the net premium income, after deducting any so-called dividend or premium returned or credited to the member. * * *

Treasury Regulations 86, promulgated under the Revenue Act of 1934:

> Art. 101 (11)–1 [as amended by T. D. 4634, XV–1 Cum. Bull. 127, 1928 (1936)]:
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> To be exempt under section 101 (11) the business of the organization must be purely mutual and its income must be used or held solely for the purpose of paying losses or expenses. Neither the extent of the territory in which the company may properly operate nor the fact that it accepts premium deposits instead of assessments is decisive as to its exemption. The writing of nonmutual insurance regardless of amount will deprive a company of the exemption.

The provisions of Article 101 (11)–1 of Treasury Regulations 94, promulgated under the Revenue Act of 1936, are identical with the above-quoted regulations.

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